

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

LIGHTHOUSE FELLOWSHIP CHURCH,

Plaintiff,

v.

RALPH NORTHAM, in his official capacity
as Governor of the Commonwealth of Virginia,

Defendant.

Civil No. 2:20cv204

ORDER

Pending before the Court is a Motion for Leave to File *Amicus Curiae* Brief in Support of Defendant and in Opposition to Plaintiff's Motion for an Injunction Pending Appeal brought by the non-party "Americans United for Separation of Church and State" ("AUSCS"). ECF No. 30. "The Court has broad discretion in deciding whether to allow a non-party to participate as an *amicus curiae*," provided that the proffered information "is timely and useful." *Tafas v. Dudas*, 511 F. Supp. 2d 652, 659 (E.D. Va. 2007) (quotation and citations omitted). Non-parties may be permitted to participate "where they provide helpful analysis of the law, they have a special interest in the subject matter of the suit, or existing counsel is in need of assistance." *Id.* (quotation omitted).

Non-party AUSCS "is a nonsectarian and nonpartisan public-interest organization that is committed to preserving the constitutional principles of religious freedom and the separation of religion and government." Mot. for Leave, ECF No. 30. AUSCS claims an expertise and a "special interest in the subject matter" regarding this lawsuit.

The Court finds that Defendant is well-represented and capable of adequately presenting positions and arguments. Defendant needs no assistance and takes no position specifically on whether AUSCS should be permitted to participate as an *amicus curiae*. Mot. for Leave at 2, ECF No. 30. AUSCS has submitted a proposed brief arguing that the Governor's Orders should be subject to, and pass, rational basis review, that the Governor's Orders also satisfy a heightened level of scrutiny, and that a religious exemption would violate the Establishment Clause to the United States Constitution. *Id.* The arguments regarding scrutiny are well-addressed in Defendant's response in opposition, and the argument regarding religious exemption is less relevant to the pending motion. The proposed brief fails to provide the Court with useful information that would otherwise be lacking in this litigation. *See Vanda Pharmaceuticals, Inc. v. Food and Drug Administration*, --- F. Supp. 3d ----, 2020 WL 516561, at *14 (D.D.C. 2020) (denying motion for leave to file amicus brief where the arguments in the brief were either impermissible or supplicative of the arguments in the relevant motion).

Accordingly, AUSCS's Motion for Leave to File *Amicus Curiae* Brief (ECF No. 30) is **DENIED**. The Clerk is **REQUESTED** to forward a copy of this Order to counsel of record for all parties.

IT IS SO ORDERED.

May 20, 2020
Norfolk, Virginia

/s/
Arenda L. Wright Allen
United States District Judge